

# **EXHIBIT 5**

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION</b>	)	<b>MDL No. 2804</b>
	)	
	)	<b>Case No. 1:17-md-2804</b>
<b>THIS DOCUMENT RELATES TO:</b>	)	
<i>Track One-B Cases</i>	)	<b>Judge Dan A. Polster</b>
	)	

**DECLARATION OF JAMES TSIPAKIS IN SUPPORT OF  
PHARMACY DEFENDANTS' MOTION FOR RECONSIDERATION**

Pursuant to 28 U.S.C. § 1746, I, James Tsipakis, hereby declare as follows:

1. I am the Senior Vice President for Pharmacy at Giant Eagle, Inc. ("Giant Eagle"). I am also a licensed pharmacist. I submit this Declaration on behalf of Defendant Giant Eagle, of which Defendant HBC Service Company is a division, in support of Pharmacy Defendants' Motion for Reconsideration.

2. At the current time, Giant Eagle has 38 grocery stores with in-store pharmacies in Cuyahoga and Summit Counties and 108 grocery stores with in-store pharmacies in the state of Ohio. Across the entire Giant Eagle grocery chain, there are 212 Giant Eagle grocery stores with in-store pharmacies or stand-alone pharmacies.

3. Giant Eagle and HBC Service Company are not properly named parties in any cases outside of Ohio. While Giant Eagle and HBC Service Company have been sued in other opioid actions, in each such case Giant Eagle and HBC Service Company have been improperly named because neither has ever done business in any of the jurisdictions involved in those other actions.

4. In Cuyahoga County, Giant Eagle pharmacies dispensed medications pursuant to a prescription more than 6.3 million times since September 2016. In Summit County, Giant Eagle

pharmacies dispensed medications pursuant to a prescription more than 4 million times since September 2016.

5. In the year 2017 alone, Giant Eagle pharmacies dispensed medications pursuant to a prescription more than 22.7 million times across the entire chain.

6. Giant Eagle maintains dispensing data electronically. A significant portion of that data constitutes electronic protected health information, or ePHI. The federal Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (“HITECH”), and related regulations—as well as equivalent state laws regarding health information—regulate ePHI by dictating how entities like Giant Eagle must maintain, and protect, ePHI. These laws also provide patients with numerous rights with respect to their ePHI.

7. Giant Eagle maintains administrative, technical, and physical safeguards over ePHI in accordance with the HIPAA Security Rule, HITECH, prevailing guidance from Health and Human Services and the Office for Civil Rights, and state privacy laws. Giant Eagle also audits all systems that store, transmit, or process ePHI in accordance with relevant standards, such as NIST 800-66, ISO 27799, and maintains a SOC2 Type II attestation (a type of information security) for these environments, ensuring that all required controls per the HIPAA Security Rule are present.

8. Giant Eagle also performs thorough third party vendor and service provider risk analysis and security reviews to ensure that the security controls to protect the confidentiality and the integrity of ePHI in these environments are appropriate and present.

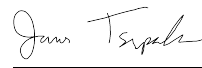
9. It will take several weeks to create reports regarding opioid prescriptions dispensed in Cuyahoga and Summit Counties for the past three years (the “Proposed Reports”). Reports including broader geographic and temporal ranges will take even longer.

10. While the Proposed Reports will be anonymized to remove patient names, street addresses, and other easily identifiable information, the Proposed Reports will still contain ePHI and must be maintained and protected in a manner that accounts for patient privacy concerns.

11. It is my understanding that creating anonymized reports regarding opioid prescriptions dispensed in Cuyahoga and Summit Counties for the past three years will cost approximately \$75,000 to \$125,000 and, of course, more if additional years are required.

I have read the above declaration consisting of eleven (11) paragraphs and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

12/20/2019  
Date

  
James Tsipakis